
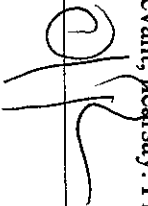


**PLAINTIFFS' OCTOBER 28, 2008 DESIGNATION OF DEPOSITION TESTIMONY OF JAMES NEKU**  
**(Testifying By Way of Deposition Only)**  
**(Counter-Designations in italicized text)**


**Deposition October 25 - 26, 2004**

<b>Page/Line Cite</b>	<b>Defendants' Objections and Counter-Designations</b>	<b>Plaintiffs' Responses to Defendants' Objections and Objections to Counter- Designations</b>	<b>Defendants' Cross- Examination Designations</b>	<b>Plaintiffs' Objections and Counter-Designations</b>	<b>Defendants' Responses to Plaintiffs' Objections and Objections to Counter- Designations</b>
5:1-4					
21:13-15					
49:8-10					
117:2-5	Argumentative. FRE 401-403. 	There is nothing argumentative about this passage which is proper cross of a hostile witness establishing a key Parabe fact.	184:11-13		<b>Chambers Copy</b>
			186:4-10		
			187:16-188:1	Irrelevant; hearsay. FRE 802. 	Not offered for the truth but for state of mind of the crisis management

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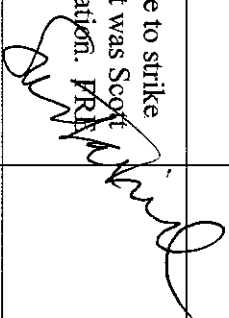

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			196:3-10		team and for notice. Also goes to state of mind of persons making public statements concerning the Parabe incident.
			199:15-201:20, 201:25-202:9	Double hearsay; lacks foundation. FRE 802, 602 	Testimony is not offered for the truth of the matter asserted. Goes to Scott Davis' and the crisis management team's state of mind when they decided to request assistance to rescue the hostages. Also relevant to notice. Also goes to state of mind of persons making public statements concerning the Parabe

201:18-201:20  
with  
public statements

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			204:18-205:2		incident.
208:3-8					
209:24- 210:19	210:15-16: Move to strike "And I guess that was Scott Davis" as speculation. <i>PRR</i> 401-403, 602. 		223:10-224:8, 224:17-23	Move to strike 223:22- 224:23 as hearsay. Non responsive; lacks foundation. <i>PRR</i> 802, 602. If allowed in, Plaintiffs designate 224:10-11 for completeness. 	Testimony is not offered for the truth of the matter asserted. Goes to Scott Davis' and the crisis management team's state of mind when they decided to request assistance to rescue the hostages. Also relevant to notice. Also goes to state of mind of persons

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					making public statements concerning the Parabe incident.
			225:21-25		
			226:7-15		
			227:2-6		
			228:23-229:8		
232:8-22					
241:2-11					
			243:15-23		
245:7-15	245:7-12—Counsel's statement preceding the	This does not misstate prior testimony. See 235:2-			

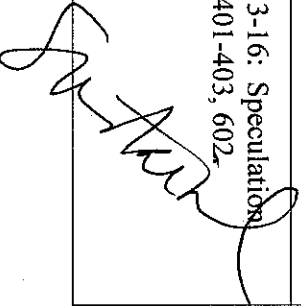


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	question assumes facts not in evidence, misstates the witness's testimony and is irrelevant and a waste of time. FRE 401-403.	13.			
250:21-23			248:24-249:18		
251:17-25					
			252:20-25		
253:15-254:16	254:13-16: Speculation FRE 401-403, 602.	The inspector of the MOPOPLS who provided this information was part of the attack team with Neku. See 254:13-16.			





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255:12-14					
256:12- 257:2					
			257:10-18	Lacks foundation FRE 602. <i>OPR</i>	
			258:18-259:17		
			259:21-260:7		
			262:20-25	Designation needs 261:20-22 for completeness. Move to strike 262:20- 266:23: Hearsay, lacks foundation, prejudicial, and lacks personal knowledge FRE 802.	Not offered for the truth but for state of mind of the speaker and listener and/or notice. Plaintiffs allege they were unlawfully detained at the barge and the statements go to the state of mind of the military

*Will give notice  
by 11/12/08  
Effect of notice  
Davis*

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				602, & 403.	and police who made those arrests. Also goes to state of mind of persons making public statements concerning the Parabe incident.
			263:12-15 (starting with "I said")		Plaintiffs' Response: This is absolutely being offered for the truth of the matter. Lt. Sadiq's and Neku's state of mind after the shooting is irrelevant and highly prejudicial.

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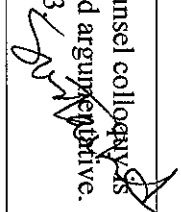
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267:22- 268:9			265:22-266:23		
269:8-12					
270:3-10	Deponent lacks personal knowledge. FRE 602, 802. 	The court already overruled a similar objection in connection with two live witnesses (Boyo and Ulori). This testimony goes to Afolayan's state of mind, which defendants would have thrown if they had consulted him.			
			270:11-12		
			272:10-25 (colloquy to be		



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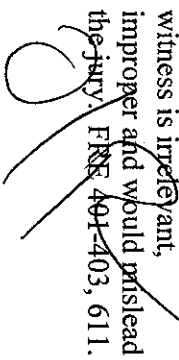
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275:17- 276:4			read)		
279:19- 280:2	Deponent lacks personal knowledge. FRE 602 	The question asks for percipient knowledge; the answer is a based on personal observation.			
280:16-25	280:16: Counsel colloquy is irrelevant and argumentative. FRE 401-403 		280:3-9		
281:15-20					
			281:21-23		

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284:18- 285:1	Testimony is cumulative; counsel's badgering of the witness is <del>irrelevant</del> , improper and would mislead the jury. FRE 401-403, 611. 	There is no badgering, question and answer are highly relevant to Afolayan's state of mind and information defendants could have obtained, but failed to, prior to deciding to attack.			
286:5-12	Testimony is cumulative; counsel's badgering of the witness is irrelevant, improper, assumes facts not in evidence and would mislead the jury. FRE 401- 403, 611.	There us no badgering, question and answer are highly relevant to Afolayan's state of mind and information defendants could have obtained, but failed to, prior to deciding to attack.			
286:16-19	Testimony is cumulative; counsel's badgering of the witness is irrelevant, improper and would mislead	There us no badgering, question and answer are highly relevant to Afolayan's state of mind			

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	the jury. FRE 401-403.	and information defendants could have obtained, but failed to, prior to deciding to attack.			
			294:5-8	Move to strike: lacks foundation, calls for speculation. FRE 602 is allowed. Plaintiffs counter 294:6-10 <i>SN</i>	
			295:25-297:15	Double hearsay, lacks foundation, calls for speculation. FRE 802, 602. <i>DL</i>	Testimony is not offered for the truth of the matter asserted. Goes to Scott Davis' and the crisis management team's state of mind when they decided to request assistance to rescue the hostages. Testimony also goes to Deji's state of

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			303:25-304:3		mind that the negotiations had broken down. Also relevant to notice. Also goes to state of mind of persons making public statements concerning the Parabe incident.
379:21-25					
			413:19-414:9		
414:13-17					
			428:11-16	Lacks foundation, no personal knowledge, hearsay. FRE 602, 802.	Not offered for the truth but for state of mind of the GSF who detained those allegedly tortured,

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444:24- 445:5	Irrelevant. FRE 401-403. 	This is highly relevant as defendants have repeatedly stated the protestors "ravaged" the barge, assumed broken bottles, etc.			to CNL' state of mind relating to the detention and to notice. Also goes to state of mind of persons making public statements concerning the Parabe incident.